

*summary*

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL )  
DEVELOPMENT PERMIT ISSUED BY )  
KING COUNTY TO JOHN P. BARRON )  
JAMES F. CHUMBLEY, et al., )  
Appellants, )  
v. )  
KING COUNTY and JOHN P. BARRON, )  
Respondents. )

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SHB No. 224

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER, the Request for Review of the granting of a substantial development permit for development of Inglewood Shores condominium, individual homes and related facilities having come on regularly for formal hearing on September 21, 23, 24, and 28, 1976, before Board members Art Brown, Chairman, Chris Smith, W. A. Gissberg, Robert E. Beaty, and Gordon Y. Ericksen; and Ellen D. Peterson, hearing examiner, having presided; and appellants Mr. and Mrs. James F. Chumbley and Mrs. Robert Simpson appearing pro se, appellant Robert Simpson not

1 appearing, respondent King County appearing through Deputy Prosecutors  
2 John E. Keegan and Thomas A. Goeltz, and respondent-permittee John P.  
3 Barron appearing through his attorney Peter L. Buck; and the Board having  
4 entered on the 10th day of January, 1977 its proposed Findings of Fact,  
5 Conclusions of Law and Order; and the Board having served said proposed  
6 Findings, Conclusions and Order upon all parties herein by certified  
7 mail, return receipt requested and twenty days having elapsed from said  
8 service; and

9 The Board having received exceptions to its proposed Findings,  
10 Conclusions and Order from appellant Chumbley, and replies thereto from  
11 both respondents, and having considered same and having denied appellant's  
12 exceptions; and the Board being fully advised in the premises; now  
13 therefore,


14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
15 Findings of Fact, Conclusions of Law and Order, dated the 10th day of  
16 January, 1977, and incorporated by reference herein and attached hereto  
17 as Exhibit A, are adopted and hereby entered as the Board's Final  
18 Findings of Fact, Conclusions of Law and Order herein.

19 DONE at Lacey, Washington, this 25<sup>th</sup> day of February, 1977.  
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27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

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ART BROWN, Chairman

  
CHRIS SMITH, Member

  
W. A. GISSBERG, Member

  
GORDON Y. ERICKSEN, Member

  
ROBERT E. BEATY, Member

Did not participate  
RALPH A. BESWICK, Member

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

CERTIFICATION OF MAILING

I, Dolores Osland, certify that I deposited in the United States mail, copies of the foregoing document on the 25<sup>th</sup> day of February, 1977, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Peter L. Buck  
Hillis, Phillips, Cairncross,  
Clark & Martin  
403 Columbia Street  
Seattle, Washington 98104

Mr. and Mrs. James F. Chumbley  
16018 Inglewood Road  
Bothell, Washington 98011

Mr. John E. Keegan  
Deputy, Civil Division  
Office of the Prosecuting  
Attorney  
King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104

Mr. and Mrs. Robert Simpson  
16354 Inglewood Lane  
Bothell, Washington 98011

Mr. John P. Barron  
P. O. Box 322  
Winthrop, Washington 98862

Department of Planning and  
Community Development  
W217 King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104

Dolores Osland  
DOLORIES OSLAND, Clerk of the  
SHORELINES HEARINGS BOARD

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL )  
DEVELOPMENT PERMIT ISSUED BY )  
KING COUNTY TO JOHN P. BARRON )  
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SHB No. 224

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

A formal hearing on the merits of this matter was held on  
September 21, 23, 24, and 28, 1976, before the Shorelines Hearings  
Board, Art Brown, Chairman, Chris Smith, W. A. Gissberg, Robert E.  
Beaty, and Gordon Y. Ericksen. Hearing Examiner Ellen Peterson  
presided.

Appellants Mr. and Mrs. James F. Chumbley and Mrs. Robert Simpson  
appeared pro se. Appellant Robert Simpson did not appear. Respondent  
King County appeared through Deputy Prosecutors John E. Keegan and

EXHIBIT A

1 Thomas A. Goeltz. Respondent Barron Properties appeared through its  
2 attorney, Peter L. Buck.

3 Witnesses were sworn and testified and exhibits were admitted.  
4 Written arguments were presented by appellant James F. Chumbley,  
5 respondent King County, and respondent Barron Properties.

6 Subsequent to the hearing, the Board issued a Memorandum Decision,  
7 dated October 22, 1976, which is incorporated herein as if fully set  
8 forth.

9 From the testimony heard, exhibits examined, and arguments con-  
10 sidered, the Shorelines Hearings Board makes these

11 FINDINGS OF FACT

12 I.

13 Since 1939 the Barron family has owned the subject property and  
14 surrounding property which is located at Kenmore, Washington, at the  
15 northeast corner of Lake Washington. The property is at the mouth of  
16 the Sammamish River and is bounded by the Inglewood Golf & County Club,  
17 the shore of Lake Washington, and the Sammamish River. Major portions  
18 of the property have important environmental values as a marsh habitat.

19 II.

20 The subject property consists of approximately 35 acres, approxi-  
21 mately 11.7 of which is covered by water. Of the 35 acres, approxi-  
22 mately 3.3 acres lie above elevation 20 feet and have generally firm  
23 ground which contains large old fir trees. An additional 2.7 acres  
24 of the property were filled prior to adoption of the Shoreline  
25 Management Act.

26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER

1 III.

2 The property includes a strip of marshy land and a small marsh  
3 island accreted at the Sammamish River mouth. This island is commonly  
4 called Squack Island. The site has a shallow shoreline with a gently  
5 sloped, low upland.

6 IV.

7 The property has approximately 1,290 lineal feet of Lake Washington  
8 shoreline, approximately 1,580 lineal feet of shoreline on the south  
9 shore of the Sammamish River, and approximately 1,620 lineal feet of  
10 shoreline on Squack Island.

11 V.

12 Approximately 28.5 acres are zoned RM 1800, a designation which  
13 would permit 684 units, and approximately 6.5 acres are zoned RS 7200,  
14 which would allow 27.3 units.

15 In a previous King County action on other adjacent property, PUD  
16 File No. 120-71-P and Plat File No. 871-6, it was required that the  
17 subject property would not be developed at a density greater than four  
18 units per acre until such time as an alternate access had been provided.  
19 In imposing this requirement, King County agreed that the applicant's  
20 acreage figure, i.e., thirty-five acres, would be used in calculating  
21 density. Under this condition the applicant could build a total of 140  
22 units until such time as an alternate access was provided.

23 VI.

24 The site currently has one single-family residence built on the  
25 high ground and has several outbuildings, most of them connected with

26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER

1 the keeping of exotic birds.

2 VII.

3 North of the Sammamish River, zoning is Light Manufacturing.  
4 Northeast across the river and 68th Avenue N.E. zoning is General  
5 Commercial. East across 68th Avenue N.E. is a small block zoned  
6 Neighborhood Business and RS 9600. To the south zoning is RS 7200.

7 VIII.

8 The property across the river to the north has recently been  
9 filled and is used as a major staging area for Alaska pipeline con-  
10 struction. To the east and south there is a multi-unit residential  
11 development and the Inglewood Golf & Country Club. The surrounding  
12 area contains many single-family residences. The shoreline to the  
13 south is almost completely developed with residences.

14 IX.

15 In 1973 Barron Properties applied for a substantial development  
16 permit which included platting most of the marsh area for single-family  
17 residences, development of Squack Island for single-family residences,  
18 and an eventual 96-unit condominium to be built on the high ground.  
19 Included in the application was a request for permission to place wood-  
20 chip fill over much of the property. That application was denied by  
21 King County on September 20, 1974. The applicant appealed the denial  
22 to the Board in SHB No. 174 and the Attorney General and Department  
23 of Ecology intervened on King County's side. This request for review  
24 is still pending before the Board.

25 X.

26 On December 31, 1975, the applicant applied for a substantial

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER



development permit which is the subject of this appeal. The permit which was issued provided for construction of up to 130 condominium units and for platting of 5 single-family lots. The permit was issued by King County on April 30, 1976.

Seventeen conditions were imposed by King County and incorporated in the instant permit. These conditions assure that environmental impacts of the project will be minimized and existing conditions of the shoreline will be preserved. One condition provides that prior to site preparation or development the applicant will execute an agreement with King County to preserve the existing condition of the marsh habitat including Squack Island. The applicant did not appeal or contest any of those conditions.

#### XI.

Subsequent to issuance of the permit, the applicant agreed with the Inglewood Country Club that the project would contain no more than 89 condominium units and suggested at the close of the hearing that the Board so modify the permit.

#### XII.

The permit will authorize development on approximately 7.7 acres. The more intense development constituted by the condominiums and related parking will occur on the (approximately) 3.3 acres of high land. The five single-family residences will be on the south six acres of the property where development will modify approximately 1.5 acres. The (approximately) 2.7 acres which were previously filled will be developed as landscaping and possible tennis courts. The only other development permitted is an area of approximately 0.2 acres where a 225-foot strip

1 of shoreline will be cleared.

2 XIII.

3 Of the 7.7 acres to be developed, the majority is not in a natural  
4 state; about 1.7 acres of the property which is now in a natural state  
5 will be modified. All of Squack Island will be left in its natural  
6 state and the existing bridges to Squack Island will be removed to re-  
7 duce the human impact on that area.

8 XIV.

9 Of the total shoreline waterfront of 4,490 lineal feet, about  
10 225 feet will be modified. Removal of existing vegetation for this  
11 part of the project will not result in a significantly adverse impact  
12 on the shoreline.

13 XV.

14 Those portions of the property within 200 feet of the shoreline  
15 were all classified as Conservancy in the King County Shoreline  
16 Master Program. The biophysical constraints imposed by the marsh do  
17 not encompass the full 200 feet, however. In particular, they do not  
18 encompass the area in which the condominiums would be built, and the  
19 area of landscaping and possible tennis courts.

20 The King County Shoreline Master Program provides that uses and  
21 areas not limited by biophysical constraints shall be governed by the  
22 character of surrounding land use, the physical capability of the  
23 shoreline area, and the applicable County land use plans and policies.

24 XVI.

25 The King County Shoreline Master Program, in effect during the  
26 processing of the instant application and as approved by the Depart-

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 ment of Ecology on July 8, 1976, required a 100 foot setback in the  
2 Conservancy Environment. This provision of the Master Program was  
3 reduced to 50 feet in September, 1976.

4 The Master Program, at page 99, authorizes reduction of setback  
5 requirements when such setbacks "would make development impossible."  
6 The short distances between Inglewood Road and Lake Washington would  
7 make development impossible if setbacks greater than those approved  
8 under permit condition 11(c) were required.

9 XVII.

10 The project which would emerge from a reissued permit responsive  
11 to the Board's Order in this matter will assure that 27 ecologically  
12 important acres of the developer's 35 acre site are permanently dedi-  
13 cated to open space. In objecting to the original proposal, the U. S.  
14 Fish and Wildlife Service recommended that as an alternative to the  
15 development, King County should purchase the property for use as a  
16 park or wildlife preserve. Under the Board's Order, significant  
17 shoreline acreage, which encompasses Squack Island and includes nearly  
18 all of one of the five remaining major peat marsh areas on Lake  
19 Washington, will be preserved for the benefit of all citizens, present  
20 and future, with no public expenditure required.

21 XVIII.

22 The project as modified in this Order is in harmony with the  
23 general purpose and intent of the King County Shoreline Master Program.

24 XIX.

25 The development contemplated is a reasonable and appropriate use of  
26 the property. The project will protect and preserve the public's oppor-

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 tunity to enjoy the physical and aesthetic qualities of the shorelines  
2 the state consistent with the overall best interest of the state and  
3 the people generally. In particular, it will allow up to 94 families  
4 to live on the Lake Washington waterfront and will allow passive enjoy-  
5 ment of an important marsh habitat which will be preserved in its  
6 existing natural state through a conservation easement, plat restriction,  
7 or other appropriate legal instrument.

8 XX.

9 The project will not lead to pollution of Lake Washington and is  
10 designed in a manner which minimizes, insofar as practicable, resultant  
11 damage to the ecology and the environment and will not interfere with  
12 the public's use of the water.

13 XXI.

14 The buildings authorized by this permit will not obstruct the view  
15 of a substantial number of residences, nor will they interfere with  
16 visual access of the water.

17 XXII.

18 The proposed development is designed at a level of density com-  
19 patible with the physical capabilities of the shorelines and water  
20 areas and is designed to protect the aesthetic characteristics of the  
21 water and shorelines.

22 XXIII.

23 The project as authorized will not result in any significant  
24 destruction of the marsh habitat and King County has imposed conditions  
25 in the permit to protect it.

26 Although the peat marsh portion of the subject property is a  
27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER 8

1 fragile area, its limited development will result only in a minor  
2 detrimental effect which is balanced by preservation of the great  
3 majority of it.

4 XXIV.

5 Residential development will not occur pursuant to the permit  
6 in the 100 year flood plain.

7 XXV.

8 The proposed development makes adequate provisions for utilities,  
9 circulation, access, site layout, and building design.

10 XXVI.

11 The development as approved can be designed and built on the soils  
12 with geologic conditions as they now exist.

13 XXVII.

14 Although pursuant to the permit the driveways for the five single-  
15 family lots could have been placed on fill, the applicant expressed a  
16 willingness to have the permit modified to require construction on piling  
17 and the Board has done so in the Order which follows. Construction on  
18 piling will cause even less impact on the environment. This modification  
19 eliminates the only significant fill which would have occurred on the  
20 peat marsh, and the limited fill which remains will neither reduce the  
21 water surface nor flood plain capacity.

22 XXVIII.

23 Additional human presence on the applicant's property may cause a  
24 slight reduction in the use of the area for nesting and breeding of  
25 wildlife, but that reduction will not be significant.

26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER

XXIX.

An Environmental Impact Statement (Ex. RK-20) was prepared in connection with a previous application for a substantial development permit in King County File No. 039-73-SH (SHB No. 174). That Impact Statement discussed the 1973 application which was for 30 single-family residences and contemplated 96 multi-family units. The current proposal was set forth as an alternative in that Impact Statement.

King County used the previously prepared Impact Statement in its decision-making on the current permit, which is the subject of this appeal.

XXX.

The current proposal involves the same property and the same type of development as was analyzed in the Impact Statement. The current proposal has fewer and less severe environmental impacts than the application discussed in the Impact Statement.

XXXI.

The Impact Statement contains a reasonably thorough discussion of the significant aspects of the probable environmental consequences of the current application. Additionally, it contains a reasonably thorough discussion of alternatives to the proposed action.

XXXII.

The Impact Statement was supplemented where necessary by new material in the form of a soils report, additional topographic information, and additional environmental information presented at King County's hearing on the matter, as well as through new comments from other governmental agencies.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 XXXIII.

2 King County's report and decision in this matter, Ex. RK-25, con-  
3 tained a full discussion of the changes which were being made from the  
4 1973 application, and it was made clear throughout the King County pro-  
5 ceedings that the previous Impact Statement would be used.

6 XXXIV.

7 The topographic information, soils information, and traffic infor-  
8 mation were adequate in quantity and quality to meet the need of a  
9 decision-maker to inform himself of the environmental impacts of the  
10 proposed action.

11 XXXV.

12 King County had considered preparing a formal supplement to the  
13 Impact Statement and circulating such a supplement but in open hearing  
14 the King County responsible official exercised his discretion and de-  
15 cided not to prepare and circulate such a supplement.

16 XXXVI.

17 Appellants had a full opportunity during the hearing before the  
18 Shorelines Hearings Board to provide any additional environmental  
19 information or alternatives to the Board, and did provide testimony  
20 concerning the adequacy of the Impact Statement.

21 XXXVII.

22 The dimensions and character of the proposed development as author-  
23 ized by the substantial development permit were sufficiently ascertain-  
24 able by King County and by the Shorelines Hearings Board, through the  
25 application and permit documents, to adjudge its consistency with the  
26 standards established in the Shoreline Management Act for determining

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER 11

1 the validity of the substantial development permit and are sufficiently  
2 ascertainable for King County or others to monitor compliance with that  
3 permit.

4 XXXVIII.

5 King County caused notice of application for the substantial de-  
6 velopment permit to be published at least once a week on the same day of  
7 the week for two consecutive weeks in a newspaper of general circulation  
8 within the area in which the development is proposed. Additionally,  
9 notice was mailed to the latest recorded real property owners shown by  
10 the County Assessor's roll as within 300 feet of the subject property.

11 XXXIX.

12 Robert D. Sells, John L. Halloran, Darcy F. Halloran, Kenneth W.  
13 Vernon, Linda Haverfield, Charles J. Shierk, Leonard Steiner, David R.  
14 Saunders, and Robert Spiger had expressed an interest in writing in a  
15 previous but different application on the same property, King County  
16 Application No. 039-73-SH. Notice of the King County hearing on the  
17 instant permit was not mailed to these persons.

18 XL.

19 The granting of the substantial development permit by King County  
20 was widely known in the community. John L. Halloran, Darcy F. Halloran,  
21 Charles J. Shierk, and Leonard Steiner were originally appellants in the  
22 instant case. Subsequently, these parties voluntarily withdrew as  
23 appellants. The other individuals listed in the preceding paragraph did  
24 not choose to appeal issuance of the permit.

25 XLI.

26 Appellants Chumbley and Simpson do not reside or own real property

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER 12



1 within 300 feet of the subject property and did not express an interest  
2 in writing in the previous application, No. 039-73-SH.

3 XLII.

4 The parties agreed to a stipulation of facts which was filed and is  
5 incorporated herein by this reference as if fully set forth.

6 XLIII.

7 Any Conclusion of Law hereinafter recited which should be deemed  
8 a Finding of Fact is hereby adopted as such.

9 From these Findings, the Shoreline Hearings Board comes to these

10 CONCLUSIONS OF LAW

11 I.

12 At the date of permit application and issuance, King County did  
13 not have a Shoreline Master Program which had been approved by the  
14 Department of Ecology. Therefore, the standards governing issuance of a  
15 permit are contained in RCW 90.58.140(2)(a).

16 II.

17 The development authorized in the permit as modified by the Board's  
18 decision is consistent with: (i) the policy of RCW 90.58.020 and other  
19 provisions of the Act; (ii) the guidelines and regulations of the  
20 Department of Ecology; and (iii) the King County Shoreline Master  
21 Program so far as it can be ascertained.

22 III.

23 In passing the Shoreline Management Act, the legislature recog-  
24 nized that there "were ever increasing pressures of additional uses  
25 . . . being placed on the shorelines." The Act's policies accepted the  
26 not reprehensible position of private property owners that they should

1 be permitted to use their land in a manner which does not unreasonably  
2 infringe on other private rights or the state's public interests. The  
3 provisions of the Shoreline Management Act were accordingly designed to  
4 assure that all development which was to occur on the shoreline would  
5 be controlled, with priorities of use established, with precious natural  
6 resources preserved to the greatest extent practical, and with adverse  
7 environmental impacts mitigated. The project is consistent with these  
8 intents.

9 IV.

10 The permit as modified in this Order would not have required a  
11 variance had the King County Master Program been approved and adopted.

12 V.

13 The areas for condominium development and for landscaping and  
14 possible tennis courts meet the conditions of paragraph 8 on page 147  
15 of the King County Shoreline Master Program, which provides that uses  
16 and areas not limited by biophysical constraints shall be governed by  
17 the character of surrounding land use, the physical capability of the  
18 shoreline area, and the applicable County land use plans and policies.  
19 These criteria of the Master Program, rather than the Conservancy design-  
20 nation criteria, govern the development of the 3.3 acres of ground  
21 lying above elevation 20 feet and the 2.7 acres for landscaping and  
22 possible tennis courts located on the previously-filled area. The  
23 proposed condominium and landscaping and possible tennis court develop-  
24 ments are consistent with and in compliance with these criteria.

25 VI.

26 WAC 173-16-040(1), which establishes guidelines for citizen in-

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 involvement, planning for and adoption of master programs, does not in  
2 itself establish any applicable requirements with regard to issuance  
3 of a substantial development permit.

4 VII.

5 The proposed development is consistent with and in compliance with  
6 WAC 173-16-040(4)(b)(ii), 173-16-040(5), 173-16-050(6), 173-16-050(7),  
7 173-16-050(9), 173-16-060(8), 173-16-060(9), 173-16-060(14), 173-16-060(15)  
8 and 173-16-060(17).

9 VIII.

10 The proposed single family structures shall be built on "piles" [sic]  
11 rather than "piers" as that term is used in the King County Shoreline  
12 Master Program.

13 IX.

14 The Environmental Impact Statement utilized by King County in making  
15 its decision in this application, as supplemented, was adequate.

16 King County lawfully utilized the Environmental Impact Statement,  
17 as supplemented, in making a decision in the instant case.

18 The substance of the Environmental Impact Statement and the procedures  
19 of King County were in compliance with the applicable statute and Code  
20 provisions, i.e., RCW 43.21C and King County Ordinance No. 1700 (codified  
21 as § 20.44.010 et seq.).

22 X.

23 All of King County's actions in connection with the instant permit  
24 occurred prior to King County's adoption of "agency guidelines" as  
25 provided for in WAC 197-10-800. The SEPA Guidelines, WAC 197-10, did  
26 not have a binding effect at any of the relevant times herein.

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 RCW 43.21C.120. Although the Guidelines did not apply, King County  
2 substantially complied with them.

3 XI.

4 King County Ordinance No. 1700, as amended by Ordinance Nos. 1841  
5 and 2285, was in effect on the dates the subject application was  
6 received and the decision made on such application.

7 XII.

8 King County was exempted from preparing a new environmental impact  
9 statement by King County Ordinance No. 1700. King County Code  
10 §§ 20.44.030(c), 20.44.180.

11 XIII.

12 The discretionary decision of whether or not to prepare and circulate  
13 a separate supplement to the Environmental Impact Statement rested with  
14 King County's responsible official and he properly exercised such  
15 discretion.

16 XIV.

17 The application and permit are sufficient to comply with the  
18 requirements of WAC 173-14-110 and the requirements discussed in Yount v.  
19 Hayes, 87 Wn.2d 380 (July 30, 1976).

20 XV.

21 The Lake Washington Regional Goals and Policies were developed as  
22 guidelines for local jurisdictions in the preparation of master programs  
23 pursuant to RCW 90.58.110(1). The standards governing issuance of  
24 substantial development permits are found in RCW 90.58.140(2)(a) and  
25 do not include consistency with Regional Goals and Policies.

26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER

XVI.

Although appellants alleged violation of RCW 90.48 and 70.95, WAC 173-201, 173-16 and 173-210, they presented no evidence or argument in this regard.

XVII.

King County complied with all notice requirements including those of RCW 90.58.140(4); WAC 173-14-070 (as amended); and King County Code ch. 20.40. RCW 90.58.130(1) does not establish any additional notice requirements for permit applications.

XVIII.

There is no legal requirement to give notice of proceedings of a substantial development permit application to persons expressing an interest in a different application for the same property or a similar project and King County was not required to give notice to persons who had expressed an interest in King County Application No. 039-73-SH.

XIX.

The Shoreline Management Act requires no hearing at the local government level, but instead provides for a de novo hearing before the Shorelines Hearings Board. Although there was no error in the giving of notice in this application, if there had been it was cured as to appellants by a de novo hearing before the Shorelines Hearings Board.

XX.

Appellants Chumbleys and Simpsons do not have standing to assert a lack of notice of the King County proceedings with regard to mailing of notice to other persons who had expressed interest in writing in the

1 previous application. Mochizuki v. King County, 15 Wn.App. 296, 548  
2 P.2d 578 (1976).

3 XXI.

4 The plans submitted by the applicant are in compliance with zoning  
5 of the property and with the density requirements established in earlier  
6 King County files, PUD File No. 120-71-P and Plat File No. 871-6. Since  
7 King County developed and imposed the special condition limiting density,  
8 it was within King County's discretion to interpret it.

9 XXII.

10 Any Finding of Fact which should be deemed a Conclusion of Law  
11 is hereby adopted as such.

12 From the foregoing Findings and Conclusions, the Board issues the  
13 following

14 ORDER

15 The action of King County in granting the substantial development  
16 permit is affirmed subject to modification of the permit to limit the  
17 number of condominium units to 89 and eliminate the fill for drive-  
18 ways of the single-family residences. This matter is remanded to King  
19 County for modification of condition 11(b) such that the number of con-  
20 dominium units which may be constructed pursuant to this permit is  
21 limited to a maximum of 89 units, and for modification of condition 11(d)  
22 such that no landfill shall be authorized for the driveways of the  
23 single-family residences.

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27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER 18

1 DONE at Lacey, Washington this 10<sup>th</sup> day of January,

2 1977.

3 SHORELINES HEARINGS BOARD

4 Art Brown  
5 ART BROWN, Chairman

6 Chris Smith  
7 CHRIS SMITH, Member

8 W. A. Gissberg  
9 W. A. GISSBERG, Member

10 Robert E. Beaty  
11 ROBERT E. BEATY, Member

12 Gordon Y. Erickson  
13 GORDON Y. ERICKSEN, Member

14 (Did not participate)  
15 RALPH A. BESWICK, Member

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26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER